

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

Sep 09, 2020

SEAN F. McAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

NICKY LEE CREEKMORE,
Petitioner,

v.

ROBERT FERGUSON and SCOTT
SOUZA,
Respondents.

4:20-cv-05082-SAB

ORDER SUMMARILY
DISMISSING HABEAS ACTION

By Order filed August 5, 2020, the Court granted Petitioner Nicky Lee Creekmore, a prisoner at the Benton County Jail, leave to proceed *in forma pauperis* and directed him to show cause why his *pro se* Petition for Writ of Habeas Corpus Under 28 U.S.C. § 2241 should not be dismissed due to his failure to exhaust state court remedies and as a proper exercise of abstention under *Younger v. Harris*, 401 U.S. 37 (1971). ECF No. 11. Petitioner filed a timely response on August 12, 2020 entitled, “MOTION ‘SHOW CAUSE’ Response.” ECF No. 12.

Petitioner asserts that he has filed various claims in the county superior court, including a “tort” claim, which have been “delayed till after Covid-19.” *Id.* at 1. He claims he is “suffering Pre-trial Hostile Conditions of Coerhercian [sic], worse than Post-conviction remedies.” *Id.* It is unclear what Petitioner is asserting.

ORDER SUMMARILY DISMISSING HABEAS ACTION -- 1

1 In any event, Petitioner has failed to demonstrate that he has exhausted his
2 state court remedies or that *Younger* abstention is inappropriate. Therefore, for the
3 reasons set forth above and in the Order to Show Cause, ECF No. 11, the Court
4 finds it appropriate to dismiss this action without prejudice for failure to exhaust
5 state court remedies.

6 Because it plainly appears that Petitioner is not entitled to relief in this Court
7 at this time, **IT IS ORDERED** the petition, **ECF No. 1**, is **DISMISSED** without
8 prejudice pursuant to Rule 4, Rules Governing Section 2254 Cases in the United
9 States District Courts. **IT IS FURTHER ORDERED** that all pending Motions are
10 **DENIED as moot.**

11 **IT IS SO ORDERED.** The Clerk of Court is directed to enter this Order,
12 enter judgment, provide copies to Petitioner, and close the file. The Court certifies
13 that pursuant to 28 U.S.C. § 1915(a)(3), an appeal from this decision could not be
14 taken in good faith, and there is no basis upon which to issue a certificate of
15 appealability. 28 U.S.C. § 2253(c); Fed. R. App. P. 22(b). A certificate of
16 appealability is therefore **DENIED.**

17 **DATED** this 9th day of September 2020.



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A handwritten signature in blue ink that reads "Stanley A. Bastian". The signature is written in a cursive, flowing style.

23 Stanley A. Bastian
24 Chief United States District Judge
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